

Serial No. 09/801,613

Leland James Wiesehuegel

Page 5 of 9

Section IV:
AMENDMENT UNDER 37 CFR §1.121
REMARKS

Request for Telephonic Interview

Applicant hereby requests a telephonic interview with the examiner prior to issuance of the next Office Action and after consideration of this reply. During the interview, applicant's agent would like to answer any questions the examiner may have, and consider any changes the examiner may propose which could be made in the form of a supplemental amendment.

The examiner is requested to contact the applicant's agent, Robert H. Frantz, at 405-812-5613, to indicate a time and date of the examiner's choice for a telephone interview.

Rejections under 35 U.S.C. §102(e)

In the Office Action, the examiner has rejected claims 1 - 23 under 35 U.S.C. §102(e) for lack of novelty as being anticipated by U.S. Patent Application Publication US2002/0059131 to Goodwin (hereinafter "Goodwin").

Applicant notes that the filing date of the Goodwin patent application is Aug. 10, 2001, which falls after the filing date of our patent application, Mar. 8, 2001. The published Goodwin patent application shows a claim to priority to a provisional patent application, serial number 60/224,240, which was filed on Aug. 10, 2000, prior to the filing of our patent application. In order for the Goodwin published patent application to properly serve as prior art to our patent application, the portions of the Goodwin published non-provisional disclosure relied upon for the rejections must be included or supported in Goodwin's provisional patent application, as well. If the present rejections on the present grounds are maintained following this reply, applicant requests to be provided a copy of the provisional patent application in the next Office Action with references to the portions relied upon for the rejections.

The invention disclosed by Goodwin differs substantially from the invention we have disclosed and claimed in several manners. We believe that these differences stem from the fact that the two inventions are drawn to different needs in the art - Goodwin to providing financial products (Abstract), and ours for brokering goods such as computer components through a

Serial No. 09/801,613

Leland James Wiesehuegel

Page 6 of 9

hierarchy of brokers and traders.

More specifically, our invention claimed in the present patent application provides a "guest" user option which allows a user to see, but not act, on goods and/or services to which he is entitled to view based upon a contractual relationship between the manufacturer of the goods, the trader, and the broker, which we have defined as "entitlement schema" or entitlement definitions. These definitions are not simply "user preferences", but are defined by and controlled by such a contractual relationship, and include factors such as categories of products (e.g. hard drives, monitors, keyboards, CPU's, etc.), as well as geographic factors such as the bidder's location (e.g. corresponding to a geographic sales or distribution region).

For example, a distributor in the western United States may only have contractual rights to see manufacturer's offers of hard drives and keyboards. (Please refer to our disclosure in the Summary of the Invention, and at pg. 15, line 8, through pg. 17, line 3 for our example embodiments of profile matrices with category-location pairs). As such, our "profiles" with "entitlement definitions" (Claims 1, 9, and 17) as we have defined this term include such *contractual* entitlement criteria. Our claims 2, 3, 10, 11, 18, and 19, specifically claim category and guest location as two of these entitlement definitions.

According to another function of our invention, an "entitled offering" is prepared and displayed to the guest user through a method of considering the full set of items being offered by the manufacturer, and eliminating or suppressing display of items for which a particular guest is not *entitled by contract* to receive information (Claims 1, 9, and 17, and especially claims 4, 5, 12, 13, 20, and 21). This not equivalent to a user setting his or her own search criteria or preferences, but is a matter of enforcement by our system of contractual provisions.

Goodwin, however, is silent as to "entitlement definitions" as we have defined them, and instead relies upon their own definition of user profiles which is:

[0093] User Profiles 50 is a database containing user profile information. In at least one embodiment, User Profiles 50 stores "site-wide" user attributes such as username/password, Buyer preferences, Seller preferences, payment information, etc. This information may vary depending on the type of user (e.g., Buyer vs. Seller vs. Quality Control, etc.). (emphasis added)

Serial No. 09/801,613

Leland James Wieseuegel

Page 7 of 9

In this paragraph of Goodwin's disclosure, there is no mention of an entitlement matrix such as category-location pairs, but just includes typical user identity information (user name, password), and generic preferences.

Later in the disclosure, Goodwin provides some examples of such user profile data:

[0125] Referring to FIGS. 2, 3, and 6, the system 30 receives a request from a user for a financial product (step 300). The request can be a request for all listed financial products or can be a request for financial products meeting one or more criteria. For example, in one embodiment, when a user accesses the system 30, if the user has a profile stored on the system 30, and the profile lists loan criteria, the system 30 can automatically bring up financial products meeting the stored criteria. Although not shown here, in one embodiment, a user may store the results of previous searches and bring those searches up, as part of step 300. (emphasis added)

In this paragraph, Goodwin lists examples such as loan criteria, automatic search criteria, and results of previous searches, but is still silent as to use of our "entitlement definitions" which related to a contractual relationship between an offeror, trader, and broker.

In a subsequent paragraph, Goodwin discloses that a "bidder preference" as to a "type of financial product" being sought by the bidder is provided by the bidder himself, or by "extrapolating" from a profile of the bidder, and in this case, the "profile" of the bidder includes a history of the bidder's trading:

[0144] The system 30 receives one or more bidder preferences (step 550), representing one or more criteria that a bidder has for the type of financial product he is looking for. In at least one embodiment, the bidder himself provides the bidder preferences. In at least one embodiment, the system 30 extrapolates at least one bidder preference based on the profile of the bidder. In at least one embodiment, the system extrapolates at least one bidder preference based on a bidder's trading history. (Emphasis added)

As the Goodwin disclosure is not directed towards bidding systems for a hierarchy of

Serial No. 09/801,613

Leland James Wieschuegel

Page 8 of 9

offerors (e.g. manufacturers), traders and bidders, it does not explicitly or inherently provide disclosure as required under 35 U.S.C. §102(e) of our "entitlement definitions". Further, there is no motivation or suggestion provided in the Goodwin disclosure to adapt or modify their invention to perform the functions and steps that we have disclosed and claimed, and thus an obviousness rejection under 35 U.S.C. §103 would not be supported by Goodwin.

Therefore, applicant requests reconsideration of the rejections based upon the facts derived from the cited disclosure, and allowance of the claims, and for the following statutory and policy reasons:

1. The cited reference, Goodwin's published patent application, does not properly anticipate the claimed invention, as it fails to disclose all the claimed steps, elements or limitations. MPEP 2131 states:

TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH
EVERY ELEMENT OF THE CLAIM (*capitalization emphasis found
in original text*)

2. The cited reference, Goodwin's published patent application, does not properly anticipate the claimed invention, as it fails to disclose all the claimed steps, elements or limitations as set forth according to the applicant's terminology. In order to maintain a rejection based solely or in part on Goodwin's disclosure, terminology and definitions of the cited reference(s) would be improperly employed to interpret the meaning and scope of the applicant's claims. MPEP 2173.01 states:

MPEP 2173.01 Claim Terminology. A fundamental principle contained in 35 U.S.C. 112, second paragraph is that applicants are their own lexicographers. They can define in the claims what they regard as their invention essentially in whatever terms they choose so long as the terms are not used in ways that are contrary to accepted meanings in the art.

Serial No. 09/801,613

Leland James Wieschuegel

Page 9 of 9

Further, MPEP 608.01 states:

The claims should be construed in light of the specification.

Conclusion

Based upon the facts presented in the foregoing paragraphs, applicant requests reconsideration of the rejections, and allowance of the claims.

###